

EXHIBIT 1

INTRODUCTION

Respondent “Citizens for an Educated America, No on 227” (the “Committee”) was a ballot measure committee primarily formed on October 9, 1997 to oppose Proposition 227 in the June 2, 1998 primary election. Respondent David Gould served as the treasurer of Respondent Committee. This matter arose from an audit conducted by the Franchise Tax Board of the Committee’s finances for the period January 1, 1997 through June 30, 1998.

The Political Reform Act (the “Act”)¹ requires ballot measure committees to disclose any unpaid expenses that have accrued during a reporting period. Ballot measure committees must also disclose specified information about each expenditure made by the committee, including payments made to sub-vendors. In this matter, Respondents failed to disclose accrued expenses totaling \$131,407. In addition, Respondents failed to itemize sub-vendor information for advertising expenditures totaling approximately \$1.3 million.

For the purposes of this Stipulation, Respondents’ violations are stated as follows:

COUNT 1: Respondents failed to disclose \$131,407 in accrued expenses on the second pre-election campaign statement for the reporting period March 18 through May 16, 1998, that was filed on May 22, 1998, in violation of Section 84211, subdivision (k).

COUNT 2: Respondents failed to report sub-vendor information for a \$50,000 payment made to Morris & Carrick on the campaign statement for the reporting period May 17 through June 30, 1998, that was filed on August 3, 1998, in violation of Section 84303.

COUNT 3: Respondents failed to report sub-vendor information for a \$650,000 payment made to Morris & Carrick on the campaign statement for the reporting period May 17 through June 30, 1998, that was filed on August 3, 1998, in violation of Section 84303.

COUNT 4: Respondents failed to report sub-vendor information for \$658,428 in payments made to Morris & Carrick on the campaign statement for the reporting period May 17 through June 30, 1998, that was filed on August 3, 1998, in violation of Section 84303.

RESPONDENTS: Citizens for an Educated America, No on 227, and David Gould

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission appear at California Code of Regulations, title 2, section 18109 through 18996. All regulatory references are to Title 2 of the California Code of Regulations.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited. In furtherance of this purpose of disclosure, the Act requires candidates and their controlled committees to file various campaign statements, disclosing the contributions that they have received and the expenditures that they have made.

Duty to Disclose and Itemize Expenditures and Accrued Expenses

Section 84211, subdivision (k) requires the disclosure of specific information for each person to whom expenditures of \$100 or more have been made during the period covered by a campaign statement, including the person's name and street address, the amount of each expenditure made to the person, and a brief description of the consideration that was received for each expenditure. For purposes of the disclosure requirement in Section 84211, subdivision (k), the term "expenditures" includes accrued expenses, also referred to as unpaid bills. (Section 84211, subdivision (k)(6).)

Duty to Disclose and Itemize Sub-vendor Payments

At all relevant times, Section 84303 provided that no expenditure shall be made, other than overhead and normal operating expenses, by an agent or independent contractor, including but not limited to an advertising agency, on behalf of, or for the benefit of, any committee, unless it is reported by the committee as if the expenditure was made directly by the committee. Persons to whom expenditures are made by an agent or independent contractor on behalf of a committee in exchange for consideration are commonly referred to as "sub-vendors."

Treasurer Liability

Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Citizens for an Educated America, No on 227 was a ballot measure committee primarily formed to oppose Proposition 227 in the June 2, 1998 Primary Election. Respondent David Gould served as the treasurer of Respondent Committee. Proposition 227 was a ballot measure passed by the voters that significantly restricted bilingual education in public schools. During the election, Respondents raised approximately \$4.5 million in contributions, and made approximately \$4.5 million in expenditures, to oppose Proposition 227.

COUNT 1
Failure to Report Accrued Expenses

Respondents had a duty to disclose on each of their campaign statements any unpaid expense that accrued during the reporting period covered by the statement.

During the reporting period March 18, 1998 through May 16, 1998, Respondents incurred \$131,407 in unpaid bills. The single largest unpaid bill during this period was a \$40,300 bill for telephone surveys provided by David Binder Research. Respondents were required to report these unpaid bills as accrued expenses on the second pre-election campaign statement that they filed on May 22, 1998, but failed to do so.

By failing to disclose \$131,407 in accrued expenses on the second pre-election campaign statement, Respondents violated Section 84211, subdivision (k). Respondents ultimately disclosed the payments on their post-election semi-annual campaign statement, for the reporting period May 17, 1998 through June 30, 1998, that they filed on August 3, 1998.

COUNTS 2-4
Failure to Report Payments Made to Sub-vendors

Respondents had a duty to report on their campaign statements, specified information regarding payments that were made on their behalf to sub-vendors for broadcast advertising.

Respondents employed Richard Ross of Ross Communications as the campaign manager for Respondent Committee. As campaign manager, Richard Ross contracted with the New York-based political consulting firm, Morris & Carrick, for broadcast advertising services. Before the election, Respondents made and properly reported five payments to Morris & Carrick totaling \$2,715,000. Morris & Carrick, in turn, made \$2,448,000 in sub-vendor payments on behalf of Respondents. Respondents timely disclosed \$1,089,575 of these sub-vendor payments on pre-election campaign statements that were filed on March 27, 1998 and May 22, 1998. After the election, Respondents were required to disclose the remaining \$1,358,428 in sub-vendor payments² on the semi-annual campaign statement that they filed on August 3, 1998, for the reporting period May 17, 1998 through June 30, 1998, but failed to do so.

By failing to disclose required information regarding sub-vendor expenditures totaling \$1,358,428, Respondents committed three violations of Section 84303.

² Morris & Carrick disbursed \$1,358,428 to the following television stations: KNBC, KTLA, KCOP, KABC, KCBS, KMEX, KESQ, KGTV, KNSD, KCOY, KBAK, KERO, KFTV, KJEO, KSEE, KUVS, KION, KHSL, KCPM KTVU, KXTV, KCRA, KDTV, KPIX, KRON, KNTV, KOVR.

CONCLUSION

Respondents failed to disclose all of their campaign activity during the June 2, 1998 primary election. The total amount of accrued expenses and sub-vendor expenditures not disclosed was significant. Regarding the sub-vendor expenditures, Respondents amended their August 3, 1998 campaign statement to add the previously undisclosed sub-vendors after the Franchise Tax Board notified them of their failure to do so during a routine audit. Respondents may have encountered some difficulty obtaining the necessary information about the sub-vendor expenditures before the August 3, 1998 reporting due date. The availability of the records containing the information is a matter of dispute, however, among Ross Communications, Morris & Carrick, and Respondents, and will remain unresolved due to the death of an employee of the committee treasurer in an automobile accident.

This matter consists of four counts, which carry a maximum administrative penalty of Eight Thousand Dollars (\$8,000). As Respondents failed to timely and accurately disclose a significant amount of campaign activity, the facts of this case justify imposition of the agreed upon penalty of Eight Thousand Dollars (\$8,000).